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98TH CONGRESS
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HOUSE OF REPRESENTATIVES

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26 p.

REORGANIZATION ACT AMENDMENTS OF 1984

MARCH 30, 1984.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

pt. 1: 83-1403-5

Mr. MOAKLEY, from the Committee on Rules, submitted the following

1008-C;
1008-D.

REPORT

together with

Y1.1/8:98-128/pt.2

ADDITIONAL VIEWS

[To accompany H.R. 1314, which on February 8, 1983, was referred jointly to the Committees on Government Operations and Rules]

[Including cost estimate of the Congressional Budget Office]

The Committee on Rules, to whom was jointly referred the bill (H.R. 1314) to extend and revise the authority of the President under chapter 9 of title 5, United States Code, to transmit to the Congress plans for the reorganization of the executive branch of Government, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

COMMITTEE AMENDMENT

The amendment recommended by the committee is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Reorganization Act Amendments of 1984".

EXTENSION OF AUTHORITY

SEC. 2. (a) Subsection (b) of section 905 of title 5, United States Code, is amended to read as follows:

"(b) A provision contained in a reorganization plan may take effect only if the plan is transmitted to Congress (in accordance with section 903(b)) on or before December 31, 1984.".

(b) Paragraph (1) of section 908 of title 5, United States Code, is amended by striking out "described by section 909 of this title" and inserting in lieu thereof "with

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respect to any reorganization plans transmitted to Congress (in accordance with section 903(b) of this chapter) on or before December 31, 1984".

METHOD OF TAKING EFFECT

SEC. 3. (a) Section 906 of title 5, United States Code, is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following: "(a) Except as provided under subsection (c) of this section, a reorganization plan shall be effective upon approval by the President of a resolution (as defined in section 909) with respect to such plan, if such resolution is passed by the House of Representatives and the Senate within the first period of 90 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress. Failure of either House to act upon such resolution by the end of such period shall be the same as disapproval of the resolution."; and

(2) by striking out everything after "otherwise is effective" in subsection (c) and inserting in lieu thereof a period.

(b) Chapter 9 of title 5, United States Code, is further amended—

(1) by striking out "thirty calendar days" in section 903(c) and inserting in lieu thereof "60 calendar days";

(2) by striking out "sixty calendar days" in such section and inserting in lieu thereof "90 calendar days";

(3) by striking out "45 calendar days" in section 910(b) and inserting in lieu thereof "75 calendar days"; and

(4) by striking out "45 calendar days" in section 911 and inserting in lieu thereof "75 calendar days".

(c) Section 909 of title 5, United States Code, is amended—

(1) by striking out "a resolution of either House of Congress" and inserting in lieu thereof "a joint resolution of the Congress"; and

(2) by striking out "the does not favor" and inserting in lieu thereof "the Congress approves".

(d) Section 912 of title 5, United States Code, is amended—

(1) by striking out "agreed to or disagreed to" in subsection (b) and inserting in lieu thereof "passed or rejected"; and

(2) by striking out "final approval" in subsection (c) and inserting in lieu thereof "final passage".

(e)(1) Section 912 is amended by adding at the end thereof the following new subsection:

"(e) If, prior to the passage by one House of a solution of that House, that House receives a resolution with respect to the same reorganization plan from the other House, then—

"(1) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(2) the vote on final passage shall be on the resolution of the other House.".

(2) The heading of such section is amended by striking out "disapproval" and inserting in lieu thereof "passage".

(3) The table of contents for chapter 9 of title 5, United States Code, is amended by striking out "disapproval" in the item pertaining to section 912 and inserting in lieu thereof "passage".

INFORMATION TO ACCOMPANY PLANS

SEC. 4. Section 903(b) of title 5, United States Code, is amended by adding at the end thereof the following new sentences: "In addition, the President's message shall include an implementation section which shall (1) describe in detail (A) the actions necessary or planned to complete the reorganization, (B) the anticipated nature and substance of any orders, directives, and other administrative and operational actions which are expected to be required for completing or implementing the reorganization, and (C) any preliminary actions which have been taken in the implementation process, and (2) contain a projected timetable for completion of the implementation process. The President shall also submit such further background or other information as the Congress may require for its consideration of the plan.".

RESTRICTIONS ON CONTENTS OF PLANS

SEC. 5. (a) Section 905(a) of title 5, United States Code, is amended—

(1) by inserting "or renaming an existing executive department" immediately after "a new executive department" in paragraph (1);

(2) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) creating a new agency which is not a component or part of an existing executive department or independent agency;".

(b) Section 904(1) of such title is amended by inserting ", subject to section 905," immediately after "may".

Explanation of the Committee Amendment

Athough, as a matter of convenience, the committee has reported an amendment in the nature of a substitute, the committee asserts jurisdiction only with respect to certain provisions of H.R. 1314, as described in its statement under the section of this report entitled "Scope of Report." The amendment in the nature of a substitute, recommended by the committee, incorporates the amendment in the nature of a substitute, recommended by the Committee on Government Operations, without substantive change, except for amendments of a technical and conforming nature.

The changes incorporated in the amendment are technical. The first amends the short title to conform to the expected year of enactment. The second amends existing law to clarify that the rules of the House and Senate, contained in existing law, as modified by the bill, are subject to the same termination date as the other provisions of the chapter. The other modifications make changes in parliamentary terms in existing law to conform to a change otherwise provided in the bill from simple resolutions of disapproval with respect to reorganizations plans to joint resolutions of approval.

Scope of Report

In addition to its well understood responsibility for resolutions relating to the order of business, the committee receives original referral of all bills and resolutions changing or affecting the rules of the House.

H.R. 1314, the Reorganization Act Amendments of 1982, as introduced, amends chapter 9 of title 5, United States Code. Sections 901 through 907 of that chapter relate to the submission by the President of reorganization plans and the method for congressional review of such plans; this subject comes under the jurisdiction of the Committee on Government Operations, under clause 1(j)(3) of rule X, for "reorganizations in the executive branch of Government." Sections 908 through 912 relate to the procedure by which such plans are reviewed by the House of Representatives and the Senate and by the committees of each House; this subject comes under the jurisdiction of the Committee on Rules, under clause 1(q)(1) of rule X, for the "rules and joint rules."

The Committee on Rules shares jurisdiction with the Committee on the Judiciary over legislative veto bills, which contain rulemaking provisions and are applicable to federal agency regulations generically. In the case of such bills, applicable to regulations or other executive actions of specific agencies or programs, the jurisdiction of the Committee on Rules is shared with the standing committee or committees of the House having responsibility for measures relating to the agency or activity in question.

Although H.R. 1314 was jointly referred without limitation, the committee asserts jurisdiction only over certain provisions touching on the rules and has confined its mark-up and reporting to that subject.

With respect to the legislative veto, H.R. 1314 amends the provisions of the Reorganization Act of 1977 (5 U.S.C. 901, et seq.) to change the provisions for a one House veto through adoption of a simple resolution disapproving a reorganization plan, to a provision requiring affirmative action through enactment of a joint resolution before a reorganization plan could go into effect. Under the 1977 Act, a reorganization plan would become effective unless either House of Congress passed, within sixty calendar days of continuous session, a simple resolution disapproving the plan. Under the provisions of H.R. 1314, a plan would take effect only if, within ninety days, both Houses passed a joint resolution approving the plan and the President signed the legislation into law. The bill makes other changes to the congressional procedures relating to reorganization plans. Proposed changes in the expedited process for congressional review of reorganization plans mandated in title 5, United States Code, are clearly within the jurisdiction of the Committee on Rules. Therefore, in reporting H.R. 1314, the committee asserts jurisdiction over the congressional review procedures of the Reorganization Act and has confined its mark-up to that subject. In all other particulars of the bill, the committee defers, without recommendation, to the report by the Committee on Government Operations (H. Rept. 98-128, Part 1).

Committee Consideration

H.R. 1314 was introduced on February 8, 1983 by Mr. Brooks (for himself and Mr. Horton) and referred jointly to the Committee on Government Operations and the Committee on Rules. The hearing record established by the Committee on Government Operations during the 97th Congress on a similar bill, H.R. 3270, formed the basis for a hearing on H.R. 1314, by the Subcommittee on Legislation and National Security, on April 12, 1983. Representatives of the Administration and the General Accounting Office testified during that hearing. On May 3, 1983 the Committee on Governmental Operations ordered H.R. 1314 reported to the House, favorably, with an amendment in the nature of a substitute, by voice vote.

On March 22, 1984, the bill was scheduled for hearing by the Subcommittee on Rules of the House. Testimony was heard from Congressman Jack Brooks, chairman of the Committee on Government Operations, and Congressman Frank Horton, ranking minority member of the Committee on Government Operations the sponsors of the bill.

The subcommittee adopted three amendments to the bill, as introduced. The amendments are technical in nature and were considered en bloc. The first amends the short title to conform to the expected year of enactment. The second amends existing law to clarify that the rules of the House and Senate, contained in existing law, as modified by the bill, are subject to the same termination date as the other provisions of the chapter. The third makes

changes in parliamentary terms in existing law to conform to a change otherwise provided in the bill from simple resolutions of disapproval with respect to reorganization plans to joint resolutions of approval.

The bill, as amended, was ordered to be forwarded to full committee for further consideration, by voice vote, a quorum being present.

On March 27, 1984, the bill was scheduled for hearings by the Committee on Rules. Testimony was heard from Congressman John Joseph Moakley, chairman of the Subcommittee on Rules of the House.

The committee considered and adopted an amendment in the nature of a substitute. The substitute was proposed for convenience and incorporates together all amendments previously adopted in the amendment in the nature of a substitute, recommended by the Committee on Government Operations; the three technical amendments recommended by the subcommittee; and additional technical amendments, noted after the subcommittee reported, which makes changes in parliamentary terms in the bill to conform to the change from simple resolutions of disapproval with respect to reorganization plans to joint resolutions of approval.

The bill was ordered to be favorably reported, as amended, by voice vote, a quorum being present.

Background

The Reorganization Act of 1977 established an expedited procedure for congressional review of proposed reorganization plans submitted by the President and extended the one House legislative veto provisions. On June 23, 1983, the Supreme Court in *Immigration and Naturalization Service* v. *Chadha* held that the one House legislative veto is unconstitutional, thus ending years of speculation and debate about the constitutionality of customary legislative veto procedures.

The congressional veto originated with a 1932 Act providing for congressional review of Presidential proposals to reorganize functions and agencies of the executive branch of the federal government. That measure, the Legislative Appropriations Act of 1932 (47 Stat. 413), granted President Hoover executive branch reorganization authority, subject to congressional disapproval through adoption of a simple resolution by either House of the Congress, in effect, a "one House legislative veto." President Hoover's subsequent reorganization order was disapproved by a simple House resolution (H. Res. 334, 72d Congress, 2d session).

While the Congress has acted to extend the President's reorganization authority on fifteen occasions since 1932, it has allowed this authority to lapse on four occasions. The Reorganization Act of 1977 made significant changes in the procedure for congressional review of reorganization plans. The last extension of the reorganization authority (H.R. 6585, 96th Congress; Public Law 96-230) lapsed April 7, 1981. In the absence of specific reorganization authority, the President must follow the normal legislative process to reorganize or in any way alter the authority or functions of executive branch entities which have been established by legislation. The

lapse in the reorganization authority in no way affects the President's power to make administrative changes in entities which have been established administratively nor does it affect the power of the Congress to act, through normal legislation, on proposed reorganizations.

The 1977 Act permitted a one house veto of reorganization plans. Chairman Brooks had argued that this procedure was "unconditional, unwise and unnecessary." The report of the Committee on Government Operations on H.R. 1314, which was filed one month prior to the *Chadha* decision, but which anticipated its outcome, indicated that recent court action, at the appellate level, had tipped the balance in favor of requiring affirmative votes in both Houses to approve Presidential reorganization proposals. On February 9, 1982, Chairman Brooks wrote to Attorney General William French Smith, asking for clarification of the Administration's position on the legislative veto, and particularly on language contained in a proposed bill (H.R. 3270, 97th Congress) to extend the reorganization authority. In response to this request, two weeks before the adjournment of the 97th Congress, the Committee on Government Operations received a letter from Joseph R. Wright, Jr., the Deputy Director of the Office of Management and Budget, regarding the constitutionality of congressional veto procedures in H.R. 3270. Mr. Wright wrote:

> In order to remove any doubt concerning the Constitutionality of the procedures in H.R. 3270, we would suggest that any expedited procedures for Congressional review of reorganization plans be revised to provide for Congressional action by means of a resolution to be adopted by both Houses and submitted to the President for his approval or disapproval.

Inadequate time remained in the 97th Congress for the Committee on Government Operations to act on the Administration's recommendations and no further action was taken on H.R. 3270. At the beginning of the 98th Congress, Representative Brooks and Horton introduced H.R. 1314 incorporating a provision requiring affirmative congressional action on reorganization plans.

The committee is keenly aware that the expedited procedure has been developed with respect to reorganization plans over the years in Congress' attempt to increase its control over the plans and to formulate a procedure to assure an opportunity for a vote on each plan. The committee's serious concerns about the provisions of the reorganization authority relating to the procedures and rules of the House and particularly expedited legislative vetoes is ameliorated, in light of *Chadha,* by the provisions in H.R. 1314 providing for approval of the reorganization plan by joint resolution. The committee, wishing to accommodate the Committee on Government Operations in its attempt to extend the President's reorganization authority, reports the bill with an amendment in the nature of a substitute. The substitute incorporates changes which are technical in nature. The first amends the short title to conform to the expected year of enactment. The second clarifies that the rules of the House and Senate, contained in existing law, as modified by the bill, are subject to the same termination date as the other provisions of the

chapter. The others make conforming changes in parliamentary terms in existing law to reflect the change from simple resolutions to joint resolutions.

Analysis of Legislation and Amendments

Short title

Section 1 of the bill, as introduced, states that the Act may be cited as the "Reorganization Act Amendments of 1982."

The amendment in the nature of a substitute, recommended by the Committee on Government Operations in its 1983 report, changes the title to the "Reorganization Act Amendments of 1983."

The first change proposed by the amendment in the nature of a substitute, recommended by the Committee on Rules, changes the title to the "Reorganization Act Amendments of 1984."

Extension of authority

Section 2 of the bill, as introduced, amends section 905(b) of title 5, United States Code, to extend the President's reorganization authority through December 31, 1984. The extension is effective from the date of enactment of H.R. 1314.

The amendment in the nature of a substitute, recommended by the Committee on Government Operations, proposes no changes in the section.

The second change proposed by the amendment in the nature of a substitute, recommended by the Committee on Rules, redesignates section 2 as section 2(a) and inserts a new section 2(b) which amends section 908(1) of title 5, United States Code, to clarify that the same "sunset" applies to the rules of the House and Senate contained in chapter 9 of title 5, United States Code.

Schedule for consideration

Section 3(a) of the bill, as introduced, amends section 906 of title 5, United States Code, to change from sixty to ninety days the time permitted for congressional consideration of reorganization plans and requires an affirmative action by both Houses of Congress before a plan can be approved. Under the 1977 Act, a reorganization plan could become effective if within sixty days of continuous session of the Congress, between the date of transmittal and the end of the sixty days, either House passed a resolution stating in substance that the House in question does not favor the reorganization plan. H.R. 1314 provides that a reorganization plan shall be effective upon approval by the President of a resolution adopted by the House and the Senate within ninety days of continuous session after the plan has been transmitted. Failure of either House to act upon such resolution by the end of such period shall be the same as disapproval of the reorganization plan.

The amendment in the nature of a substitute, recommended by the Committee on Government Operations, proposes only minor technical changes in the subsection.

The second change proposed by the amendment in the nature of a substitute, recommended by the Committee on Rules, is technical in nature and changes the term "adopted" to "passed" to conform

to the change from simple resolutions of disapproval to joint resolutions of approval.

Section 3(b) of the bill, as introduced, amends several provisions of chapter 9 of title 5, United States Code, to accommodate the extension of the time-frame from a sixty day congressional review process to a ninety day period. Paragraph (1) extends from 30 to 60 days the time during which the President can make amendments and modifications to the plan if a resolution has not been reported to either House during that period. Paragraph (2) extends from 60 to 90 days the time during which the President may withdraw a plan. Paragraph (3) extends from 45 to 75 days the time for congressional committee consideration of the plan. And paragraph (4) extends from 45 to 75 days the time in which a committee is automatically discharged, if such committee fails to report an approval resolution.

The amendment in the nature of a substitute, recommended by the Committee on Government Operations, proposes no change in the subsection.

The amendment in the nature of a substitute, recommended by the Committee on Rules, proposes no change in the subsection.

Joint resolution

Section 3(c) of the bill, as introduced, amends section 909 of title 5, United States Code, to change the definition of resolution from a "resolution of either House of Congress" to "a joint resolution of the Congress" which requires action by both Houses of Congress and the President's signature before a plan is approved.

The amendment in the nature of a substitute, recommended by the Committee on Government Operations, proposes no change in the subsection.

The amendment in the nature of a substitute, recommended by the Committee on Rules, proposes no change in the subsection.

Revision in parliamentary terms

A change proposed by the amendment in the nature of a substitute, recommended by the Committee on Rules, is technical in nature. It inserts a new subsection (d) of section 3 of the bill which amends subsections (b) and (c) of section 912 of title 5, United States Code, to make technical changes in parliamentary terms to reflect the change from simple resolutions of disapproval to joint resolutions of approval.

Coordination of consideration

Section 3(d) of the bill, as introduced, amends section 912 of title 5, United States Code, to incorporate the customary language linking a resolution passed by one House to that passed by the other so that, if prior to passage of a resolution by one House, that House received a resolution on the same reorganization plan from the other House, the vote on final passage shall be on the resolution of the other House. It also makes a technical change in the heading of section 912 to reflect the change from resolutions of disapproval to resolutions of approval.

The amendment in the nature of a substitute, recommended by the Committee on Government Operations, proposes no change in the subsection.

The fourth change proposed by the amendment in the nature of a substitute, recommended by the Committee on Rules, which is technical in nature and discussed in the previous section entitled "Revision in Parliamentary Terms," includes a conforming change which redesignates subsection (d) of the bill as subsection (e) of the amendment in the nature of a substitute. It also makes conforming changes in the heading and chapter analysis.

Information to accompany plans

Section 4 of the bill, as introduced, amends section 903(b) of title 5, United States Code, to require any plan to be accompanied by draft versions of certain Presidential papers which may be needed to implement the plan.

The amendment in the nature of a substitute, recommended by the Committee Government Operations, on proposes change to provide more flexible standards for information to be provided to Congress with reorganization plans.

The amendment in the nature of a substitute, recommended by the Committee on Rules, proposes no changes in the section.

Restrictions on contents of plans

Section 5(a) of the bill, as introduced, amends section 905(a) of title 5, United States Code, to add to the limitations on the use of reorganization authority contained in existing law, prohibitions on creating independent agencies or renaming executive departments.

The amendment in the nature of a substitute, recommended by the Committee on Government Operations, proposes no change in the subsection.

The amendment in the nature of a substitute, recommended by the Committee on Rules, proposes no change in the subsection.

Section 5(b) of the bill, as introduced, amends section 904(1) of title 5, United States Code, to provide that authority to rename an agency or redesignate the title of its head may be exercised only subject to the requirements of section 905 of that chapter.

The amendment in the nature of a substitute, recommended by the Committee on Government Operations, proposes no change in the subsection.

The amendment in the nature of a substitute, recommended by the Committee on Rules, proposes no change in the subsection.

Discussion of the Rules of the House

As part of its oversight responsibility for the rules of the House and the operation of the legislative process, the committee has reviewed the rules of the House contained in chapter 9 of title 5, United States Code. The committee believes that all of the changes in those rules of the House proposed by H.R. 1314 are constructive.

The committee would note that, in the preparation of H.R. 1314 and in its consideration by the two committees to which the bill was referred, only very modest review of the rules of the House contained in existing law (5 U.S.C. 908 et seq.), and those modifica-

tions proposed in the bill, was undertaken. The committee has proposed only minor technical changes that seem necessary at this time. However, its restraint in proposing amendments to the bill, under certain time pressures, should not be construed as a finding that it does not discern areas of potential concern with respect to the rules of the House contained in chapter 9 of title 5, United States Code.

The committee expects, during the period in which the extension of the Reorganization Act of 1977, proposed by H.R. 1314, is effective, to closely monitor the application of the special rules of the House, contained in the Act, to the new procedure, proposed by H.R. 1314, for approval of reorganizations through enactment of joint resolutions. The committee expects to exercise this review in close consultation and cooperation with the Committee on Government Operations and with other committees, with respect to reorganizations applicable to agencies and activities within their legislative and oversight jurisdictions, under the rules of the House.

The committee considers it appropriate to discuss the rules of the House contained in the Reorganization Act of 1977, as proposed to be amended by H.R. 1314, and to note some of the special concerns it expects to monitor during the present Congress:

Exercise of rulemaking power

Existing law (5 U.S.C. 908) is a disclaimer which states that those provisions of chapter 9 of title 5, United States Code, which relate to congressional procedures (5 U.S.C. 909 et seq.), are enacted as an exercise of the rulemaking power of each House, changes existing rules only to the extent they are inconsistent, and are subject to change in the same manner as any other rule of either House. The committee has proposed an amendment to H.R. 1314 which amends section 908(1) of title 5, United States Code, to clarify that the rules of the House and Senate, contained in existing law, as modified by the bill, are subject to the same termination date as the other provisions of the chapter.

The committee notes that the authority of each House to "determine the rules of its proceedings" is constitutionally grounded and the power of each House to modify rules it chooses to enact in statutory form is unaffected by whether that statute carries such a disclaimer. Nevertheless such language is customary and the committee considers it appropriate.

Introduction of resolutions

Existing law (5 U.S.C. 910(a)), which is not proposed to be amended by H.R. 1314, provides that, immediately after a reorganization plan is delivered to Congress, resolutions of approval shall be introduced (by request) by the chairmen of the Senate Committee on Governmental Affairs and the House Committee on Government Operations. The committee has reservations about rules which mandate that matters be introduced. But it notes that the rule is unenforceable, as confirmed by another reference in the chapter (5 U.S.C. 911) provided for discharge of another resolution in the absence of the one contemplated by this rule.

Reference of resolutions

Existing law (5 U.S.C. 910(b)) provides for referral to the Senate Committee on Governmental Affairs and the House Committee on Government Operations of resolutions with respect to reorganization plans transmitted to Congress and specifies that the committees shall make their recommendations to the respective Houses, within 45 calendar days of continuous session of Congress following the date of such resolution's introduction. H.R. 1314 modifies this requirement to provide that the committees shall act within 75 calendar days after a resolution is introduced.

With respect to referral of legislation to specific committees, the committee asserts the rule of 1890, presently carried as clause 4(a) of rule XXII, that bills and resolutions are appropriately delivered to the Speaker "to be by him referred." The committee notes that it is mandatory, under clause 5(a) of rule X, that such referral be made in accordance with the jurisdiction of the several committees as set forth in clause 1 of rule X. In carrying out his responsibilities for the reference of bills, the Speaker is advised by a nonpartisan parliamentarian.

The rules relating to introduction of bills, from the First Congress and through much of the history of the House, obliged a Member to obtain the leave of the House to bring in a bill. The modern practice dates from an evolution which produced the current rule in the revision of 1890. This evolution involved a very cautious balance of concerns, and is contemporary with the establishment of the modern standing committee structure which balanced the extension of the unlimited right to submit legislation. So long, as the House directly determined the reference of bills, under motions, it could adequately protect its interests. But the current right to introduce bills by depositing them at the Clerk's desk on the floor of the House requires the most scrupulous deference to the Speaker's nonpartisan rule in examining bills and making reference under the rules of the House.

The committee has determined that the provision (5 U.S.C. 910(b)) directing referral to the Committee on Government Operations might, to a limited degree, operate as a limitation on the discretion and prerogatives of the Speaker to make referrals. The committee would note that, based on the precedents of the House and on the provisions of clause 1(j)(4) of rule X establishing the jurisdiction of the Committee on Government Operations for "reorganizations in the executive branch of the Government," as well as statutes enacted pursuant to the rulemaking authority of the House, which are consistent with the rules and precedents of the House, the Speaker has in the past solely referred resolutions relating to reorganization plans proposed by the President to that committee.

The committee has every reason to believe that referrals relating to reorganization plans will be made in accordance with the rules of the House, including those provisions of the Reorganization Act of 1977 enacted as an exercise of the rulemaking power of the House. The committee believes that the provisions of section 910(b) of title 5, United States Code, largely reflect the legislative and oversight jurisdiction of the Committee on Government Operations

under clause 1(j)(4) of rule X, and are consistent with the Speaker's authority, under clause 5(c) of rule X, to weigh appropriate assertions of jurisdiction by other committees. Nor do the rules of the House in that chapter touch upon other kinds of legislation relating to reorganization.

Discharge and expedited consideration

Under existing law (5 U.S.C. 911), if the committees do not report the resolution within 45 days, the committee is deemed to be discharged and the resolution placed on the appropriate calendar. H.R. 1314 extends the discharge time to 75 days, but makes no other changes to the expedited discharge procedures with respect to a resolution relating to a reorganization plan.

However, the committee would express concern about automatic discharge, particularly if the committee or committees reviewing a reorganization plan determined that, rather than acting on an unamendable joint resolution of approval, it would be more appropriate to act through the regular legislative process to revise and perfect the plan. The committee assumes, in such a case, that the committees handling such regular legislation would expedite their review to present the matter to the House within the time-frame contemplated for automatic discharge, or seek an appropriate special order from the Committee on Rules, in order to assure orderly consideration.

Motion to consider

Existing law (5 U.S.C. 912(a)), which is not proposed to be amended by H.R. 1314, provides that when the committee has reported, or has been discharged from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Once the motion is agreed to, the resolution shall remain the unfinished business of that House.

Most special procedures to give priority to certain types of bills and resolutions can be easily justified within the legislative and political context of the specific legislation that creates them. The committee is sensitive to the concerns of those who propose special rules for floor consideration. The committee's reservation, however, concerns the cumulative effect of the large number of such provisions which have been enacted or proposed. The committee believes that these kinds of special procedures could proliferate to a point at which the potential exists for these procedures to interfere with each other, and to prevent the House from reaching matters of greater importance to which no special procedures attach.

Traditionally, neither House has found it appropriate to carry special rules for most classes of measures. Even declarations of war and constitutional amendments do not carry the degree of special priority in the schedule which is accorded to reorganization resolutions by this rule.

Debate

Existing law (5 U.S.C. 912(b)), which is not proposed to be amended by H.R. 1314, provides that debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable.

The committee has reservations about this time allocation. One of the committee's principal functions, in considering special orders for floor consideration of bills, is to determine appropriate time limits for debate. Although the resolution to establish the budget of the entire federal government is subject to 10 hours of debate, the committee has encountered no other modern case in which it has considered such a period to be appropriate.

Amendment

Existing law (5 U.S.C. 912(b)), which is not proposed to be amended by H.R. 1314, provides that an amendment to the resolution is not in order, either directly or through a motion to recommit. That rule precludes committee amendments, as well as those which might be offered from the floor.

The committee recognizes that it was essential that Congress act, under the prior disapproval procedure, through a resolution which contained no matter other than a statement disapproving the reorganization plan to which it pertained. Even before the Supreme Court decision, in *INS* v. *Chadha,* closed even that method of congressional review, there was a very clear congressional understanding that any language in a resolution which would make modifications in a plan would make the measure legislative in character, and subject to the constitutional requirements of the "presentation clause."

However the committee is aware of concerns about the continued use of a "closed rule" procedure if, as recommended by H.R. 1314, reorganization plans are to be approved through enactment of joint resolutions. During the hearings on the bill by the Subcommittee on Rules of the House, the subcommittee chairman (Mr. Moakley) observed:

> I accept that Congress was limited to a "yes" or "no" response on a simple resolution of disapproval. But, now that we have to pass a law to implement a reorganization, I object to Congress surrendering its traditional right to perfect that legislation. Under the rules contained in the Reorganization Act, the Committee on Government Operations and the House itself are prohibited from amending the joint resolution. I don't think the House could be persuaded to adopt a closed rule on a bill prior to being reported from one of its own committees. So I am puzzled at the idea of a closed rule on a whole class of legislation, which has not yet been written and, when it is, will be written in the bureaucracy of OMB.
>
> I am not entirely sure that there is any need for special rules at all. During the period since the existing law expired, the need to do reorganizations hasn't gone away. In March of last year, OMB decided that it would like to

transfer responsibility for publishing the Catalog of Federal Domestic Assistance down to GSA and submitted a request for legislation to the House and Senate committees, and legislation based on their request was introduced.

In reviewing the plan, both the House and Senate committees agreed that GSA was in a good position to take over the actual assembly and printing of the catalog. However, both committees felt that OMB should retain ultimate responsibility and oversight of this function. Legislation was introduced to implement the reorganization with that modification and signed into law in November.

Under the rules contained in the Reorganization Act, it would have been necessary in the House and Senate (at subcommittee, at full committee, and on the floor) to vote down an unamendable joint resolution of approval. And only after all these requirements under the rules in the Reorganization Act were disposed of, could Congress finally begin work on the bill it managed to pass without any special rules.

The committee considers it important that the matter of amendment of reorganization resolutions on the floor, and particularly in committee, be reviewed in any future extension of reorganization authority.

Recommittal and other motions

Existing law (5 U.S.C. 912(b)), which is not proposed to be amended by H.R. 1314, eliminates most procedural motions. It is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to. The committee has proposed an amendment to H.R. 1314 which amends section 912(b) of title 5, United States Code, to change these parliamentary terms to "passed or rejected," to conform to the new joint resolution procedure.

Under this rule, a motion to postpone and a motion to proceed to the consideration of other business shall be decided without debate.

In addition, the rule prohibits a motion to recommit.

Since 1910, the Committee on Rules has been barred, under a rule presently carried as clause 4(b) of rule XI, from reporting to the House any special order "which would prevent the motion to recommit." The historical importance of the motion to recommit, as explained by Representative Charles R. Crisp of Georgia, while acting as Speaker pro tempore (May 19, 1932) is "that the only opportunity a minority may have to go on record is by means of a motion to recommit in the House." (VIII Cannon 2698)

The right of a minority to put its comprehensive position forward in instructions contained in a motion to recommit is, of course, the corollary of the right of the majority to amend. So the reasons for this rule, under the previous simple resolution procedure, are the same as the reasons discussed in the prior section on amendments, as are any doubts about its appropriateness under the new procedure. Therefore, the committee considers it important that the matter of motions to recommit reorganization resolutions be reviewed, in conjunction with any possible changes in the rule pro-

hibiting amendments which may be considered in connection with any future extension of reorganization authority.

Voting

Existing law (5 U.S.C. 912(c)), which is not proposed to be amended by H.R. 1314, provides that, at the conclusion of debate, the vote shall occur on final adoption, pending one quorum call if requested. The committee has proposed an amendment to H.R. 1314 which amends section 912(c) of title 5, United States Code, to change the parliamentary term to "passage," to conform to the new joint resolution procedure.

Appeals

Existing law (5 U.S.C. 912(d)), which is not proposed to be amended by H.R. 1314, provides that appeals from the decisions of the Chair relating to the application of the rules of the Senate or House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

Coordination of Consideration

H.R. 1314 amends section 912 of title 5, United States Code, to incorporate the customary language linking a resolution passed by one House to that passed by the other so that, if prior to passage of a resolution by one House, that House received a resolution on the same reorganization plan from the other House, the vote on final passage would be on the resolution of the other House. It also makes a technical change in the heading of section 912 to reflect the change from simple resolutions of disapproval to joint resolutions of approval.

Continuity of Session

Existing law (5 U.S.C. 906(b)) provides for the calculation of days of continuous session of Congress. It states that days on which both Houses are adjourned for more than three days are excluded from the calculation and that continuity is broken only by adjournment of Congress sine die.

The committee notes that a procedural problem has been posed by similar language in other legislative vetoes. In one experience under the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252), which calculated continuity on the basis of each session, the "used car rule" had to be promulgated and reviewed by Congress twice and the status of the rule was left in doubt for months more than was necessary.

This potential problem would best be cured by amending section 906(b)(1) of title 5, United States Code, to provide that continuity of session is broken only by adjournment sine die at the end of the second regular session of a Congress.

Although the continuity provision is definitional, it applies to the calculation of days under provisions of chapter 9 of title 5, United States Code, which relate to submission of reorganization plans, a matter under the jurisdiction of the Committee on Government Operations, and other provisions of the chapter which relate to con-

gressional review, a matter under the jurisdiction of the Committee on Rules.

Because of the joint jurisdiction (and because the committee is aware that the only sine die adjournment which will occur, during the period that H.R. 1314 would be effective, is a second session adjournment) the committee has recommended no amendments to the bill affecting this portion of the chapter. But it expects to review the matter, if the Act is extended beyond the termination date provided under H.R. 1314.

Matters Required Under the Rules of the House

Committee vote

Clause 2(l)(2)(B) of Rule XI requires each committee report to accompany any bill or resolution of a public character, ordered to be reported by a recorded vote, to include the total number of votes cast for and against the reporting of the measure.

H.R. 1314 was considered by the committee on March 27, 1984, and was ordered to be favorably reported, with an amendment in the nature of a substitute, by voice vote, a quorum being present. The legislative history of the bill is discussed, in detail, in the section of this report entitled "Committee Consideration."

Comparative print

Clause 4(d) of rule XI requires reports from the Committee on Rules, on resolutions amending the Rules of the House of Representatives, to contain a comparative print indicating changes in the existing rules.

Although the bill, as introduced, would make changes in the rules of the House, it would do so in a bill and in a manner that does not directly amend the Rules of the House of Representatives. The committee believes that the comparative print, provided in compliance with clause 3 of rule XIII, and the narrative discussion of the differences between the rules of the House contained in chapter 9 of title 5, United States Code, and the Rules of the House of Representatives, under the section of this report entitled "Discussion of the Rules of the House," adequately meet the informational needs contemplated by clause 4(d) of rule XI.

Ramseyer

Clause 3 of rule XIII requires the report of each committee on a bill or joint resolution to contain a comparative print relating to the measure:

Changes in Existing Law Made by the Bill, As Reported

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

PART I—THE AGENCIES GENERALLY

* * * * * * *

CHAPTER 9—EXECUTIVE REORGANIZATION

SEC.
901. Purpose.
902. Definitions.
903. Reorganization plans.
904. Additional contents of reorganization plan.
905. Limitations on powers.
906. Effective date and publication of reorganization plans.
907. Effect on other laws, pending legal proceedings, and unexpended appropriations.
908. Rules of Senate and House of Representatives on reorganization plans.
909. Terms of resolution.
910. Introduction and reference of resolution.
911. Discharge of committee considering resolution.
912. Procedure after report or discharge of committee; debate; vote on final [disapproval.] *passage.*

* * * * * * *

§ 903. Reorganization plans

(a) Whenever the President, after investigation, finds that changes in the organization of agencies are necessary to carry out any policy set forth in section 901(a) of this title, he shall prepare a reorganization plan specifying the reorganization he finds are necessary. Any plan may provide for—

(1) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, to the jurisdiction and control of another agency;

(2) the abolition of all or a part of the functions of an agency, except that no enforcement function or statutory program shall be abolished by the plan;

(3) the consolidation or coordination of the whole or a part of an agency, or of the whole or a part of the functions thereof, with the whole or a part of another agency or the functions thereof;

(4) the consolidation or coordination of a part of an agency or the functions thereof with another part of the same agency or the functions thereof;

(5) the authorization of an officer to delegate any of his functions; or

(6) the abolition of the whole or a part of an agency which agency or part does not have, or on the taking effect of the reorganization plan will not have, any functions.

The President shall transmit the plan (bearing an identification number) to the Congress together with a declaration that, with respect to each reorganization included in the plan, he has found that the reorganization is necessary to carry out any policy set forth in section 901(a) of this title.

(b) The President shall have a reorganization plan delivered to both Houses on the same day and to each House while it is in ses-

sion, except that no more than three plans may be pending before the Congress at one time. In his message transmitting a reorganization plan, the President shall specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of the function. The message shall also estimate any reduction or increase in expenditures (itemized so far as practicable), and describe any improvements in management, delivery of Federal services, execution of the laws, and increases in efficiency of Government operations, which it is expected will be realized as a result of the reorganizations included in the plan. *In addition, the President's message shall include an implementation section which shall (1) describe in detail (A) the actions necessary or planned to complete the reorganization, (B) the anticipated nature and substance of any orders, directives, and other administrative and operational actions which are expected to be required for completing or implementing the reorganization, and (C) any preliminary actions which have been taken in the implementation process, and (2) contain a projected timetable for completion of the implementation process. The President shall also submit such further background or other information as the Congress may require for its consideration of the plan.*

(c) Any time during the period of [thirty] *60* calendar days of continuous session of Congress after the date on which the plan is transmitted to it, but before any resolution described in section 909 has been ordered reported in either House, the President may make amendments or modifications to the plan, consistent with sections 903–905 of this title, which modifications or revisions shall thereafter be treated as a part of the reorganization plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this chapter. The President may withdraw the plan any time prior to the conclusion of [sixty] *90* calendar days of continuous session of Congress following the date on which the plan is submitted to Congress.

§ 904. Additional contents of reorganization plan

A reorganization plan transmitted by the President under section 903 of this title—

(1) may, *subject to section 905,* change, in such cases as the President considers necessary, the name of an agency affected by a reorganization and the title of its head, and shall designate the name on an agency resulting from a reorganization and the title of its head;

(2) may provide for the appointment and pay of the head and one or more offices of any agency (including an agency resulting from a consolidation or other type of reorganization) if the President finds, and in his message transmitting the plan declares, that by reason of a reorganization made by the plan the provisions are necessary;

(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization;

(4) shall provide for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with a function or agency affected by a reorganization, as the President considers necessary by reason of the re-

organization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective; and

(5) shall provide for terminating the affairs of an agency abolished.

* * * * * * *

§ 905. Limitation on powers

(a) A reorganization plan may not provide for, and a reorganization under this chapter may not have the effect of—

(1) creating a new executive department *or renaming an existing executive department,* abolishing or transferring an executive department or independent regulatory agency, or all the functions thereof, or consolidating two or more executive departments or two or more independent regulatory agencies, or all the functions thereof;

(2) continuing an agency beyond the period authorized by law for its existence or beyond the time when it would have terminated if the reorganization had not been made;

(3) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization has not been made;

(4) authorizing an agency to exercise a function which is not expressly authorized by law at the time the plan is transmitted to Congress;

(5) creating a new agency which is not a component or part of an existing executive department or independent agency;

[(5)] *(6)* increasing the term of an office beyond that provided by law for the office; or

[(6)] *(7)* dealing with more than one logically consistent subject matter.

[(b) A provision contained in a reorganization plan may take effect only if the plan is transmitted to Congress within four years of the date of enactment of the Reorganization Act of 1977.]

(b) A provision contained in a reorganization plan may take effect only if the plan is transmitted to Congress (in accordance with section 903(b)) on or before December 31, 1984.

§ 906. Effective date and publication of reorganization plans

[(a) Except as otherwise provided under subsection (c) of this section, a reorganization plan is effective at the end of the first period of sixty calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the sixty-day period, either House passes a resolution stating in substance that the House does not favor the reorganization plan.]

(a) Except as provided under subsection (c) of this section, a reorganization plan shall be effective upon approval by the President of a resolution (as defined in section 909) with respect to such plan, if such resolution is passed by the House of Representatives and the Senate within the first period of 90 calendar days of continuous session of Congress after the date on which the plan is transmitted to

Congress. Failure of either House to act upon such resolution by the end of such period shall be the same as disapproval of the resolution.

(b) For the purpose of this chapter—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(c) Under provisions contained in a reorganization plan, any provision thereof may be effective at a time later than the date on which the plan otherwise is effective [or, if both Houses of Congress have defeated a resolution of disapproval, may be effective at a time earlier than the expiration of the sixty-day period required by subsection (a)].

(d) A reorganization plan which is effective shall be printed (1) in the Statutes at Large in the same volume as the public laws and (2) in the Federal Register.

* * * * * * *

§ 908. Rules of Senate and House of Representatives on reorganization plans

Sections 909 through 912 of this title are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions [described by section 909 of this title] *with respect to any reorganization plans transmitted to Congress (in accordance with section 903(b) of this chapter) on or before December 31, 1984*; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

§ 909. Terms of resolution

For the purpose of sections 908 through 912 of this title, "resolution" means only [a resolution of either House of Congress,] *a joint resolution of the Congress,* the matter after the resolving clause of which is as follows: "That [the does not favor] *the Congress approves* the reorganization plan numbered transmitted to the Congress by the President on , 19 .", and includes such modifications and revisions as are submitted by the President under section 903(c) of this chapter. The blank spaces therein are to be filled appropriately. The term does not include a resolution which specifies more than one reorganization plan.

§ 910. Introduction and reference of resolution

(a) No later than the first day of session following the day on which a reorganization plan is transmitted to the House of Representatives and the Senate under section 903, a resolution, as defined in section 909, shall be introduced (by request) in the House by the chairman of the Government Operations Committee of the House, or by a Member or Members of the House designated by such chairman; and shall be introduced (by request) in the Senate by the chairman of the Governmental Affairs Committee of the Senate, or by a Member or Members of the Senate designated by such chairman.

(b) A resolution with respect to a reorganization plan shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within [45] *75* calendar days of continuous session of Congress following the date of such resolution's introduction.

§ 911. Discharge of committee considering resolution

If the committee to which is referred a resolution introduced pursuant to subsection (a) of section 910 (or, in the absence of such a resolution, the first resolution introduced with respect to the same reorganization plan) has not reported such resolution or identical resolution at the end of [45] *75* calendar days of continuous session of Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

§ 912. Procedure after report or discharge of committee; debate; vote on final [disapproval] *passage*

(a) When the committee has reported, or has been deemed to be discharged (under section 911) from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(b) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a

motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is [agreed to or disagreed to] *passed or rejected* shall not be in order.

(c) Immediately following the conclusion of the debate on the resolution with respect to a reorganization plan, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on [final approval] *final passage* of the resolution shall occur.

(d) Appeals from the decisions of the Chair relating to the application of the rules of the the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

(e) If, prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same reorganization plan from the other House, than—

(1) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(2) the vote on final passage shall be on the resolution of the other House.

* * * * * * *

Congressional Budget Office estimates

Clause 2(*l*)(3)(B) of rule XI requires each committee report to contain any statement required by section 308(a) of the Congressional Budget Act of 1974.

That section does not apply to this bill.

Clause 2(*l*)(3)(C) of rule XI requires each committee report to contain any cost estimate and comparison prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., March 29, 1984.

Hon. CLAUDE PEPPER,
Chairman, Committee on Rules,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1314, the Reorganization Act Amendments of 1984, as ordered reported by the House Committee on Rules, March 27, 1984.

This bill extends and revises the authority of the President to transmit plans for the reorganization of the Executive Branch of the federal government. That authority, which expired in 1981, would be extended through December 31, 1984. In addition, the bill requires the President to submit an implementation plan with each reorganization plan transmitted to the Congress. Based on information from the Office of Management and Budget, no significant additional costs are expected to be incurred due to enactment of this bill.

Enactment of this bill would not affect the budgets of state and local governments.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ERIC HANUSHIK
(For Rudolph G. Penner).

Committee cost estimate

Clause 7(a) of rule XI requires certain committee reports to contain committee cost estimates.

That provision does not apply to the Committee on Rules, but the commitee explores the cost implications of all measures it considers. The committee accepts the cost estimate prepared by the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974, and printed in this report, in compliance with clause 2(*l*)(3)(C) of rule XI.

The committee notes that a previous estimate was prepared for, and accepted by, the Committee on Government Operations (H. Rept. 98–128, Part 1, p. 8). The committee's subsequent amendments are technical in nature and have no cost implications. The estimate provided to the committee, however, is somewhat lower than that estimate.

The committee would note that it has been advised by the Administration that it expected any current cost estimate to be lower than that provided to the Committee on Government Operations because, although that committee had reported considerably in advance of action by the Committee on Rules, both versions of the bill are subject to a "sunset" at that end of the current calendar year. Therefore, the shorter effective period leaves the Administration to conclude that relatively modest use will be made of the authorities contained in H.R. 1314.

Inflation impact statement

Clause 2(*l*)(4) of rule XI requires each committee report to contain a statement relating to the inflationary impact of the enactment of that measure.

The committee is aware of none. The committee would refer to its statement under the section of this report entitled "Scope of Report" and defers, on this matter, to the report to accompany the measure of the Committee on Government Operations (H. Rept. 98–128, Part 1, p. 7).

Oversight findings

Clause 2(*l*)(3)(A) of rule XI requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(B)(1) of rule X.

The committee notes that, under the rules of the House, oversight responsibility with regard to executive reorganizations is vested in the Committee on Government Operations. The committee would refer to its statement under the section of this report entitled "Scope of Report" and defers, on this matter, to the report to

accompany the measure made by the Committee on Government Operations (H. Rept. 98-128, Part 1).

The committee, however, does exercise oversight for the rules of the House and the operation of the legislative process. Legislative vetoes, of which predecessor statutes of the Reorganization Act of 1977 are the forerunners, have been the subject of an extensive and important series of hearings now in progress in full committee. Prior hearings have been held, on the subject of legislative veto, by the Subcommittee on Rules of the House. Prior hearings have also been held, on the related subject of program review and "sunset," by the Subcommittee on the Legislative Process.

The committee would note that its oversight activities and plans in regard to rules of the House contained in the Reorganization Act of 1977 are set forth in its statement under the section of this report entitled "Discussion of the Rules of the House."

Oversight findings and recommendations of the Committee on Government Operations

Clause 2(*l*)(3)(D) of rule XI requires each committee report to contain any oversight findings and recommendations made by the Committee on Government Operations pursuant to clause 4(c)(2) of rule X.

No such findings and recommendations have been received.

Advisory committees

Section 5(b) of the Federal Advisory Committees Act (Public Law 92-463), enacted as an exercise of the rulemaking power of the House, requires the report accompanying any bill or joint resolution to contain certain findings of the committee with respect to any advisory committee established by the legislation.

H.R. 1314 creates no advisory committee, within the meaning of the role.

Views of committee members

Clause 2(*l*)(5) of rule XI requires each committee to afford a three day opportunity for members of the committee to file additional, minority, or dissenting views and to include the views in its report.

Although neither requirement applies to the committee, it always makes the maximum effort to provide its members with such an opportunity.

Additional views were submitted by the Honorable Trend Lott.

ADDITIONAL VIEWS OF THE HONORABLE TRENT LOTT ON H.R. 1314

I commend the Committees on Government Operations and Rules on reporting this vital legislation extending the President's authority to reorganize entities within the Executive Branch of the government. This authority dates back to 1932 and has been extended by the Congress some 17 times.

The Committee on Government Operations is to be especially commended on its prescience in reporting H.R. 1314 a full month before the Supreme Court's decision in *INS* v. *Chadha* holding one- and two-House legislative vetoes unconstitutional. The bill instead takes the constitutional approach of requiring the approval of reorganization plans by the enactment of joint resolutions. While I was not in agreement with the Supreme Court's holding and found myself more in accord with Justice White's dissent in *Chadha,* the sweeping mandate of that opinion is now the law of the land, and we must proceed accordingly.

I cannot concur in the implication of the Rules Committee's majority report that we might be better off with no special reorganization authority since *Chadha* now requires us to pass a law anyway. The question is therefore posed as to why we shouldn't follow the regular legislative process, with no expedited procedures and permitting the offering of amendments. The answer, as ably articulated by Chairman Brooks in his testimony before the Subcommittee on Rules, is that Presidents deserve an opportunity to present their plans for the organization of the Executive Branch for an up or down vote by the Congress, without those plans being subject to substantial alteration.

And, while the majority report raises doubts and concerns about the various special rules provisions for the consideration of joint resolutions approving reorganization plans, I would commend the Committee on Government Operations for developing these over the years to insure that the President's plans are accorded special attention by the Congress and some assurance that they will be voted on. It seems to me the expedited procedures, including mandatory introduction, consideration and reporting of approval resolutions, and their discharge if not reported, together with privileged floor consideration, are the best insurance against committee bottling of executive actions they may not favor, and thereby protect the right of the Congress to pass final judgment on such important matters.

As the Congress gropes for alternatives to the legislative veto in the wake of *Chadha,* it would do well to follow the example set by the Government Operations Committee in this legislation of providing both adequate time for committee consideration of an executive proposal, opportunity for the Executive to amend or withdraw the proposal within that review period, and the guaranteed opportuni-

ty of the Congress to act on that proposal, regardless of whether a committee reports the approval or disapproval resolution favorably, adversely, or at all.

TRENT LOTT.

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